



GNE.323061054

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Goddard et al. (as amended)  
Appl. No. : 10/063,549  
Filed : May 2, 2002  
For : POLYPEPTIDES ENCODED BY  
A NUCLEIC ACID  
OVEREXPRESSED IN  
ESOPHAGEAL AND KIDNEY  
TUMOR (as amended)  
Examiner : Patricia Ann Duffy  
Group Art Unit : 1645

**BEST AVAILABLE COPY**

**DECLARATION UNDER 37 CFR §1.131**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

We declare and state as follows:

1. We are the inventors of the invention claimed in the above-captioned patent application.
2. During the time period in which we participated in the events and activities described herein, we were employed by Genentech, Inc., the assignee of the above-captioned application.
3. All of the events and activities described herein were performed by us personally, or by others at our direction as part of our duties as employees of Genentech, Inc.
4. The subject matter and utility of the claimed invention in the above-captioned patent application was conceived prior to June 11, 1998 and diligently reduced to practice thereafter in the U.S. as described below.
5. Prior to June 11, 1998, I and/or my co-inventors conceived of the invention claimed in the above-captioned patent application. Prior to June 11, 1998, the idea of investigating several newly discovered DNA sequences for their relevance, including developing primers and cloning the DNA sequences of interest from normal and tumor tissues, was conceived. The sequences of SEQ ID NOs: 45 and 46 were first disclosed in U.S. Provisional Application 60/088863, filed June 11, 1998, as SEQ ID NOs: 1 and 3, in Figures 1A-B and 2. Antibodies to said polypeptides sequence were also contemplated as disclosed in the provisional application. In addition, various utilities for the disclosed nucleic acids, polypeptides, and antibodies, including use as diagnostic

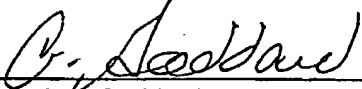
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agents, were also conceived prior to June 11, 1998, and included in the provisional application. Thus, conception of the invention claimed in the above-captioned patent application occurred prior to June 11, 1998.

6. After these initial experiments, we continued to produce primers, clone and sequence other DNA sequences. We then began to identify the expression levels of the cloned sequences, and created constructs for expression of the encoded proteins. PCR primers for use in the detection of DNA58850 expression were designed on March 6, 2000 (see Exhibit A).

7. Thereafter, the primers were used to test for expression of DNA58850 in various normal and tumor tissues. Exhibit B shows an experiment conducted in March 2000 testing for expression of DNA58850 in various normal tissues. Exhibit C shows an experiment performed on June 13, 2000, in which the primers were used to determine the expression level of DNA58850 in various tumor samples and their normal tissue counterparts. These gel data demonstrate that DNA58850 is more highly expressed in esophageal and kidney tumor than in normal esophageal and kidney tissue, respectively. These exhibits show diligence in reducing to practice following conception of the invention. Thus, we conceived of the present invention prior to June 11, 1998 and were diligent in reducing the invention to practice by at least June 13, 2000.

8. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information or belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

By:  Date: 5/16/05  
Audrey Goddard

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Paul J. Godowski

By: \_\_\_\_\_ Date: \_\_\_\_\_  
J. Christopher Grimaldi

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Austin L. Gurney

By: \_\_\_\_\_ Date: \_\_\_\_\_  
William I. Wood

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061205

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Tue Aug 10 16:46:53 PDT 2004

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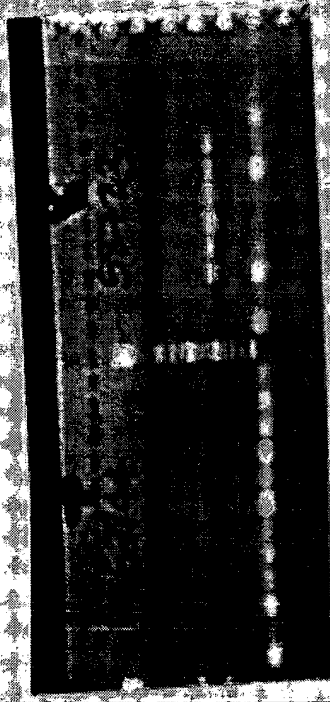
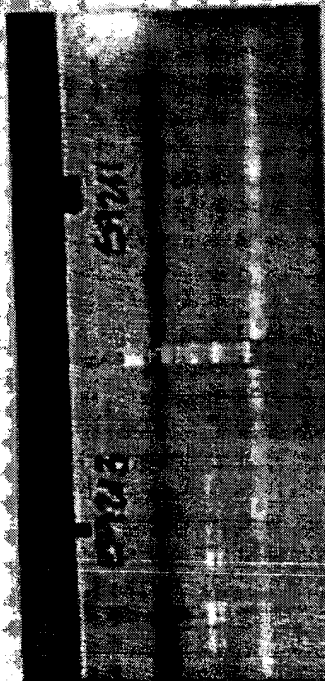
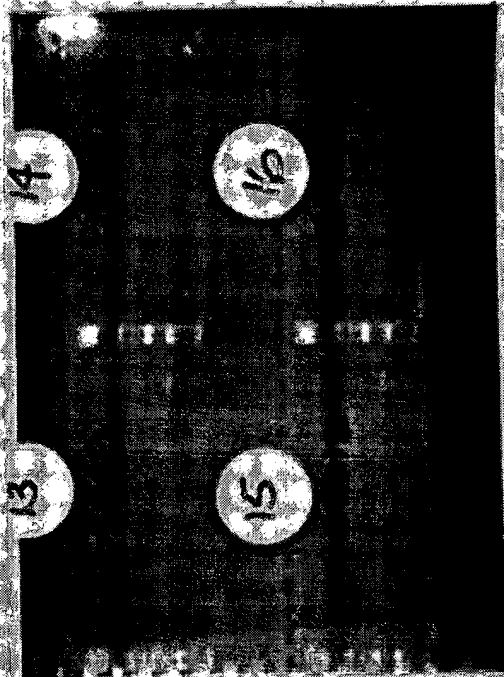
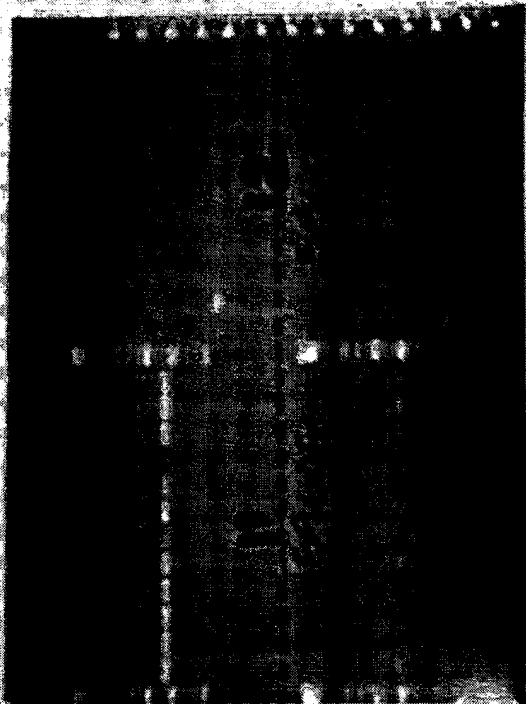
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3 58856	-	-	-	-	-	-	-	-	-	-	-	-	-	459	+
4 58855	+	-	-	-	-	-	-	-	-	-	-	-	-	599	+
5 58852	-	+	-	-	-	-	-	-	-	+	+	+	+	547	+
6 58849	-	+	-	+	+	-	-	-	-	+	+	-	-	546	
7 57244	-	-	-	-	-	-	-	-	-	-	-	-	-	519	+
8 58823	-	+	+	+	+	+	+	+	+	-	-	-	-	550	
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17 58819	+	+	+	+	+	+	+	+	+	+	+	+	+	546	
18 58825	-	-	-	-	-	-	-	-	-	-	-	-	-	546	
19 58833	-	-	-	-	-	-	-	-	-	-	-	-	-	542	
20 58835	+	+	+	+	+	+	+	+	-	+	+	-	-	503	
21 58832	-	-	-	-	-	-	-	-	-	-	-	-	-	544	
22 58836	+	+	+	+	+	+	+	+	-	+	+	+	+	555	
23 58843	-	+	+	+	+	+	+	+	-	+	+	+	+	575	
24 58822	+	+	+	+	+	+	+	+	-	+	+	+	+	505	
25 58840	+	+	+	+	+	+	+	+	-	+	+	+	+	565	
26 58819	+	+	+	+	+	+	+	+	-	+	+	+	+	543	
27 58825	+	+	+	+	+	+	+	+	-	+	+	+	+	558	
28 58821	+	+	+	+	+	+	+	+	-	+	+	+	+	586	
29 58828	+	+	+	+	+	+	+	+	-	+	+	+	+	602	
30 58853	+	+	+	+	+	+	+	+	-	+	+	+	+	508	
31 58854	+	+	+	+	+	+	+	+	-	+	+	+	+	579	
32 60283	+	+	+	+	+	+	+	+	-	+	+	+	+	580	+
33														275	





expected	found
size by	clothing

DNA #	821-823 H. Em. P. 1993	962-963 H. Em. P. 1993	964-965 H. Em. P. 1993	966-967 H. Em. P. 1993	968-969 H. Em. P. 1993	970-971 H. Em. P. 1993	972-973 H. Em. P. 1993	974-975 H. Em. P. 1993	976-977 H. Em. P. 1993	978-979 H. Em. P. 1993	980-981 H. Em. P. 1993	982-983 H. Em. P. 1993	984-985 H. Em. P. 1993	986-987 H. Em. P. 1993	988-989 H. Em. P. 1993	990-991 H. Em. P. 1993	992-993 H. Em. P. 1993	994-995 H. Em. P. 1993	996-997 H. Em. P. 1993	998-999 H. Em. P. 1993	1000-1001 H. Em. P. 1993	1002-1003 H. Em. P. 1993	1004-1005 H. Em. P. 1993	1006-1007 H. Em. P. 1993	1008-1009 H. Em. P. 1993	1010-1011 H. Em. P. 1993	1012-1013 H. Em. P. 1993	1014-1015 H. Em. P. 1993	1016-1017 H. Em. P. 1993	1018-1019 H. Em. P. 1993	1020-1021 H. Em. P. 1993	1022-1023 H. Em. P. 1993	1024-1025 H. Em. P. 1993	1026-1027 H. Em. P. 1993	1028-1029 H. Em. P. 1993	1030-1031 H. Em. P. 1993	1032-1033 H. Em. P. 1993	1034-1035 H. Em. P. 1993	1036-1037 H. Em. P. 1993	1038-1039 H. Em. P. 1993	1040-1041 H. Em. P. 1993	1042-1043 H. Em. P. 1993	1044-1045 H. Em. P. 1993	1046-1047 H. Em. P. 1993	1048-1049 H. Em. P. 1993	1050-1051 H. Em. P. 1993	1052-1053 H. Em. P. 1993	1054-1055 H. Em. P. 1993	1056-1057 H. Em. P. 1993	1058-1059 H. Em. P. 1993	1060-1061 H. Em. P. 1993	1062-1063 H. Em. P. 1993	1064-1065 H. Em. P. 1993	1066-1067 H. Em. P. 1993	1068-1069 H. Em. P. 1993	1070-1071 H. Em. P. 1993	1072-1073 H. Em. P. 1993	1074-1075 H. Em. P. 1993	1076-1077 H. Em. P. 1993	1078-1079 H. Em. P. 1993	1080-1081 H. Em. P. 1993	1082-1083 H. Em. P. 1993	1084-1085 H. Em. P. 1993	1086-1087 H. Em. P. 1993	1088-1089 H. Em. P. 1993	1090-1091 H. Em. P. 1993	1092-1093 H. Em. P. 1993	1094-1095 H. Em. P. 1993	1096-1097 H. Em. P. 1993	1098-1099 H. Em. P. 1993	1100-1101 H. Em. P. 1993	1102-1103 H. Em. P. 1993	1104-1105 H. Em. P. 1993	1106-1107 H. Em. P. 1993	1108-1109 H. Em. P. 1993	1110-1111 H. Em. P. 1993	1112-1113 H. Em. P. 1993	1114-1115 H. Em. P. 1993	1116-1117 H. Em. P. 1993	1118-1119 H. Em. P. 1993	1120-1121 H. Em. P. 1993	1122-1123 H. Em. P. 1993	1124-1125 H. Em. P. 1993	1126-1127 H. Em. P. 1993	1128-1129 H. Em. P. 1993	1130-1131 H. Em. P. 1993	1132-1133 H. Em. P. 1993	1134-1135 H. Em. P. 1993	1136-1137 H. Em. P. 1993	1138-1139 H. Em. P. 1993	1140-1141 H. Em. P. 1993	1142-1143 H. Em. P. 1993	1144-1145 H. Em. P. 1993	1146-1147 H. Em. P. 1993	1148-1149 H. Em. P. 1993	1150-1151 H. Em. P. 1993	1152-1153 H. Em. P. 1993	1154-1155 H. Em. P. 1993	1156-1157 H. Em. P. 1993	1158-1159 H. Em. P. 1993	1160-1161 H. Em. P. 1993	1162-1163 H. Em. P. 1993	1164-1165 H. Em. P. 1993	1166-1167 H. Em. P. 1993	1168-1169 H. Em. P. 1993	1170-1171 H. Em. P. 1993	1172-1173 H. Em. P. 1993	1174-1175 H. Em. P. 1993	1176-1177 H. Em. P. 1993	1178-1179 H. Em. P. 1993	1180-1181 H. Em. P. 1993	1182-1183 H. Em. P. 1993	1184-1185 H. Em. P. 1993	1186-1187 H. Em. P. 1993	1188-1189 H. Em. P. 1993	1190-1191 H. Em. P. 1993	1192-1193 H. Em. P. 1993	1194-1195 H. Em. P. 1993	1196-1197 H. Em. P. 1993	1198-1199 H. Em. P. 1993	1200-1201 H. Em. P. 1993	1202-1203 H. Em. P. 1993	1204-1205 H. Em. P. 1993	1206-1207 H. Em. P. 1993	1208-1209 H. Em. P. 1993	1210-1211 H. Em. P. 1993	1212-1213 H. Em. P. 1993	1214-1215 H. Em. P. 1993	1216-1217 H. Em. P. 1993	1218-1219 H. Em. P. 1993	1220-1221 H. Em. P. 1993	1222-1223 H. Em. P. 1993	1224-1225 H. Em. P. 1993	1226-1227 H. Em. P. 1993	1228-1229 H. Em. P. 1993	1230-1231 H. Em. P. 1993	1232-1233 H. Em. P. 1993	1234-1235 H. Em. P. 1993	1236-1237 H. Em. P. 1993	1238-1239 H. Em. P. 1993	1240-1241 H. Em. P. 1993	1242-1243 H. Em. P. 1993	1244-1245 H. Em. P. 1993	1246-1247 H. Em. P. 1993	1248-1249 H. Em. P. 1993	1250-1251 H. Em. P. 1993	1252-1253 H. Em. P. 1993
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